HONOURABLE MS. JUSTICE G.ROHINI.

WRIT PETITION No.26460 OF 2005

Dated 13-04-2006

Between:

Computer Management Technical Educational Society (CMTES) Hyd. 432, 4th Floor, Chandralok Complex, S.D.Road, Paradise, Secunderabad, represented by its Secretary G.Prabagar.

PETITIONER.

AND:

1. Small Industries Service Institute, Ministry of Small Scale Industries, Govt. of India Narsapur X Road, Balanagar, Hyderabad-037 and others.

RESPONDENTS

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ORDER:

The petitioner claims to be a Society registered under the Societies Registration Act. It entered into a memorandum of understanding dated 19-05-1999 with the 1st respondent-Small Industries Service Institute, (Ministry of Small Scale Agro and Rural Industries, Government of India) to conduct computer and other training programmes namely I.T. related courses, Management Courses and Technical Courses in Andhra Pradesh. As per the terms and conditions of the Memorandum of Understanding, the petitioner society has to run several computer institutes through out the State of Andhra Pradesh imparting quality education and training to the students and conducting examinations and awarding diploma certificates to the successful candidates.

The courses shall be conducted jointly by the petitioner society and the 1st respondent institute. The course structure and fees structure, exams, certified financial considerations, and concessions to the students were all specified in detail in the Memorandum of Understanding which was valid for a period of 5 years renewable on mutual agreement.

It is stated that after the expiry of the initial period of five years, a fresh M.O.U. dated 11-5-2005 was executed for another 3 years w.e.f. 19-5-2005 whereunder, the petitioner was permitted to organize training programmes in Hotel Management Catering Technology and other Hospitality Courses apart from other courses. Accordingly, the petitioner opened several branches throughout the state of Andhra Pradesh by investing huge amounts for securing the premises on lease and procuring infrastructure, training material and etc., While so, the 1st respondent by letter dated 7-12-2005 asked the petitioner to stop fresh admissions in all training courses in Andhra Pradesh being run by it under its collaboration. However, the training programmes which were under progress and programmes for which admissions were already taken were permitted to continue till completion. The petitioner was also informed that the said decision was taken on the basis of the communication from the Development Commissioner of Small Scale Industries, New Delhi to discontinue all training courses with collaboration with private agencies and terminate the M.O.Us with them forthwith.

Aggrieved by the said action of the 1st respondent, this writ petition is filed contending inter-alia that there is absolutely no jurisdiction for abruptly stopping the new admissions in the courses run by the petitioner and that the same would virtually amount to termination of the Memorandum of Understanding which is valid upto 2008. It is also contended that since there was no complaint whatsoever about the performance of the petitioner, the action of the 1st respondent is arbitrary, illegal and unwarranted particularly in the absence of a prior notice.

On behalf of the 1st respondent, a counter-affidavit has been filed by the Director, Small Industries Service Institute (Ministry of Small Scale Industries, Government of India) stating that the office of the Development Commissioner, Small Scale Industries has reviewed the present system to run the training

courses by the 1st respondent institute in collaboration with non-Governmental organizations with a view to ensuring standardization in respect of quality of education and issued certain guidelines for strict compliance vide letter dated 21-11-2005 to all Small Industries Service Institutes all over the country. As per the said guidelines all short term/long term courses being conducted by Small Industries Service Institutes in collaboration with private entities shall be stopped immediately after completion of training of the students already admitted to such courses. It was made clear that no new courses would be commenced in collaboration with such private entities and any agreements or understanding with private entities for conduct of training courses will be terminated forthwith. It is also made clear that in future, need based courses will be run only in collaboration with Universities recognized under the U.G.C. Act and colleges recognized by AICTE and Government of India undertaking after the prior approval of AS&DC(SSI) through E&T Division. In the light of the said guidelines, the 1st respondent had requested the petitioner not to admit fresh candidates into the training courses from 7-12-2005. Since the 1st respondent Institute is working under the control of the Development Commissioner, Small Scale Industries, it is governed by the said instructions and therefore, impugned proceedings were issued immediately to stop admissions. Hence, the petitioner cannot claim any right to continue the said courses and the writ petition is, therefore, liable to be dismissed.

Heard the learned counsel for the petitioner and the learned counsel appearing for the 1st respondent.

Despite notice, the respondents 2 and 3 failed to appear and no counters have been filed on their behalf.

From the material placed before this Court, it is clear that the 1st respondent is an organization functioning under the Ministry of Small Scale Industries, Union of India for providing training programmes and Management courses to the educated unemployed youth to provide self-employment and skill development courses. As part of its activities, the 1st respondent Institute provides training programmes to the educated unemployed youth in different fields such as computer education, beautician courses, cell phone repairing etc., by way of collaboration with the reputed agencies based on their expertise and experience

in the relevant field. In the counter filed on behalf of the 1st respondent, it is stated that the sole object in entering into the collaboration with the petitioner was to provide standardized services and training to the educated unemployed youth to generate employment and provide self-employment. It is not in dispute that the petitioner-society was entrusted with the work under a Memorandum of understanding entered into with the 1st respondent Institute to have a tie up to conduct computer and other training courses under the name SISI-CMTES CAREER EDUCATION in Andhra Pradesh.

Thus, it is clear that the permission granted to the petitioner-society to conduct computer and other training programmes was only in pursuance of an agreement between the petitioner and the 1st respondent institute which has no statutory force. Admittedly, the terms and conditions of the M.O.U. were not regulated by any Statute. In the circumstances, even assuming that the impugned termination was in breach of terms and conditions agreed upon, the relief sought in this writ petition is nothing but enforcement of terms and conditions of a non statutory contract which can not be granted by this Court in exercise of jurisdiction under Article 226 of the Constitution of India. The obligations which arise out of such a concluded contract voluntarily entered into between the parties cannot be dealt with under Article 226 of the Constitution of India.

That apart, admittedly under the impugned letter, the petitioner was asked to stop only fresh admissions in the courses being run under the collaboration of the 1st respondent institute and the training programmes which were under progress were not disturbed. Hence, it cannot be said that the petitioner was prejudiced in any manner whatsoever much less the students undergoing training programmes suffered any hardship.

Though the learned counsel for the petitioner while placing reliance upon the decision of the High Court of Madras dated 16-3-2006 in W.P.No.115 of 2006 and batch, contended that the impugned proceedings are liable to be set aside, I am unable to agree.

In the said case, the Small Scale Industries Service Institute, Chennai was informed by the Director of the Small Industries Service Institute,

Government of India by communication dated 5-12-2005 that the Courses being conducted by the Institute shall cease to operate forthwith and that the agreement entered into between them also stand terminated. When the writ petitions were filed questioning the said action of the respondents therein, while disposing of the batch of writ petitions, the respondents were directed to submit their explanation to the notices issued by AICTE to show cause as to why legal action should not be initiated against the institutions for conducting technical courses without obtaining statutory approval within two weeks and thereafter, appropriate orders be passed by AICTE and till such time, the petitioners therein were permitted to continue with the conduct of the training courses.

In the instant case, the facts are entirely different and the petitioner cannot be said to be similarly situated since the courses which are in progress were not disturbed at all. That apart, as expressed above, the matter does not involve enforcement of any statutory right and therefore, the petitioner cannot invoke the extraordinary jurisdiction of this Court under Article 226 of Constitution of India.

Viewed from any angle, the mandamus as prayed for cannot be granted.

Accordingly, the writ petition is dismissed. No costs.

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G.ROHINI, J

Dated 13-04-2006

Dvs

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